

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17012 of 2022

=====

Barmeshwar Singh Son of Ram Sagar Singh, R/o Pandeypatti Ward No. 5,
P.S. Buxar, Muffassil, District- Buxar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Registration Department,
Govt. of Bihar, New Secretariat, Patna.
2. The District Magistrate-cum- District Certificate Officer, Buxar.
3. The Additional Collector-cum- Certificate Officer, Buxar.
4. The S.D.C-cum- Certificate Officer, Buxar.
5. The District Sub Registrar-cum- Requisition Officer, Buxar.
6. The A.I.G., (Registration) Patna Division, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Verma, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC 11)

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 09-12-2022

Petitioner has prayed for the following relief(s):-

“1) For issuance of an appropriate writ/writs, order/orders, direction/directions for quashing and setting aside the entire certificate proceeding bearing certificate case no.10/2018-19, 3/2020-21 instituted under the provisions of the Bihar Public Demand Recovery Act, 1914



(hereinafter called the Act, 1914) by the District Certificate officer, Buxar against the petitioner on the basis of unverified requisition an unsigned certificate and so for quashing and setting aside order dated- 22.6.2022 passed in certificate case no. 10/2018-19 3/2020-21 whereby and whereunder the respondent Certificate Officer, Buxar, directed the petitioner to deposit Rs.10,19,102/- in lieu of less court fee stamp made for registered deed, inter- alia the following:

Reliefs:

i. Impugned unverified requisition filed by the respondents District Sub Registrar, Buxar in lopsidedly claiming the aforesaid amount of less court fee stamp, penalty and interest thereon as recoverable from the petitioner under the provisions of the Act, 1914 be declared as illegal and against the sanction of law and accordingly be quashed.

ii. Impugned certificate issued by the Certificate Officer without signing it be declared as illegal and in nullity.

iii. Impugned notice dated 25.6.2022 issued by the District Certificate Officer, Buxar in reference to the general notice published in newspaper saying for depositing the aforesaid less stamp duty within 9 days held the objection filed by the petitioner under section 9 of the Act as not acceptable, be declared as illegal and nonest in the eye of law and accordingly be set aside.



iv. Impugned action of the respondents in lopsidedly assessing the deficit court fee stamp so in contemplating the change nature of land in question from agriculture to residential without authoritative pronouncement be declared as illegal and arbitrary and accordingly be set at naught.

v. Impugned act of the respondent/s in holding the less court fee stamp respecting normal registration as recoverable under public demand be declared as illegal and misconceived as in terms of section 3(6) of the Act and accordingly be declared as not a public demand as per entry of the Schedule-I of the Act.

vi. Concerned respondents be restrained from taking coercive step against the petitioner on the basis of aforesaid illegal certificate proceeding.

vii. Erring respondents the dealt with sternly for their misdeed, misdemeanor and illegal act, particularly in taking up the proceeding by the authority without jurisdiction and subsequently transferring the records to yet another officer being not the certificate officer within the meaning of the Act.

viii. Respondents be directed to grant all the consequential benefits to the petitioner for which he is legally entitled to.

ix. Any other relief or reliefs be granted to the petitioner for which the petitioner is legally entitled to in the facts and



circumstances of the case.”

It is not in dispute that petition under Section 9 of the Bihar & Orissa Public Demands Recovery Act, 1914 (hereinafter referred to as “the Act”) is pending consideration/petitioner intends to file before the appropriate authority.

Learned counsel for the parties jointly pray that the instant petition be disposed of with direction to the appropriate authority to consider and decide the same expeditiously.

Learned counsel for the State states that the appropriate authority shall consider and decide the petition to be filed by the petitioner under Section 60 of the Act positively within a period of two months from the date of appearance of the petitioner before him along with a copy of this order and the issue of limitation shall not come in the way of decision on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner shall appear in the office of the appropriate authority on 06.01.2023 along with a copy of this order, on which date documents in support of the petition shall



be filed, or else file a fresh petition under Section 60 of the Act.

(b) The appropriate authority shall consider and dispose of the petitioner's petition expeditiously, by a reasoned and speaking order, preferably within a period of two months from the date of appearance of the petitioner before him and till then no coercive steps be taken against the petitioner;

(c) The authority shall also examine as to whether the amount in question falls within the definition of public demand or not;

(d) Needless to add, while considering such petition, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(e) Order assigning reasons shall be supplied to the parties;

(f) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(h) Liberty reserved to the petitioner to challenge the



order passed by the appropriate authority, before the appropriate forum, if so required and desired.

(i) We have not expressed any opinion on merits. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.12.2022
Transmission Date	

